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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/565,882	01/25/2006	Jurgen Tolzer	7863-88042	7621
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FITCH, EVEN, TABIN & FLANNERY P. O. BOX 18415 WASHINGTON, DC 20036				
EXAMINER				
BELLAMY, TAMIKO D				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/565,882

Applicant(s)

TOLZER ET AL.

Examiner

Tamiko D. Bellamy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 January 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/25/06</u> . | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Preliminary amendment dated 1/25/06 has been received and entered. Claims 1-9 are currently pending.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Adams (3,501,841).

Re claims 1, as depicted in figs. 1-4, Adams discloses a roughness measurement device having a roughness sensor (e.g., pick-up head 26). The roughness sensor has a sensor tip (e.g., stylus 46) and an electromagnetic transducer (50-53), which controls a recorder and transmits an electrical output. (Col. 6, lines 33-63). The transducer (50-53) is equivalent to a converter). The unit delimited by its housing (24) can be considered a "receiving device". On the inside this unit has a "recess" (the interior space) for the adjustable along the rails (25 and 27) reception of a part (30), referred to as a "sleeve". Part (30) is a "feed device" since it displaced the sensor (26) along the rails (25 and 27) over the workpiece (16). The device further has a thick glass plate (e.g., a cuboid "plastics" body) having an optically level reference surface (29). This body is the "test

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standard of fixed roughness" (the roughness remains unchanged" which is "disposed on the receiving device" and even "disposed in the recess"(Col. 3, line 70 to Col. 7, line 45).

Re claim 2, Adams discloses on the inside this unit has a "recess" (the interior space) for the adjustable along the rails (25 and 27) reception of a part (30), referred to as a "sleeve". The device further has a thick glass plate (e.g., a cuboid "plastics" body 28) having an optically level reference surface (29). This body is the "test standard of fixed roughness" (the roughness remains unchanged" which is "disposed on the receiving device" and even "disposed in the recess" (interior space)(Col. 3, line 70 to Col. 7, line 45).

Re claim 3, Adams discloses the thick glass plate (e.g., a cuboid "plastics" body 28) having an optically flat reference surface (Col. 5, lines 20-27).

Re claim 4, as depicted in figs. 1-4, Adams discloses the device further has a thick glass plate (e.g., a cuboid "plastics" body 28) having an optically level reference surface (29). This body (28) is the "test standard of fixed roughness" (the roughness remains unchanged" which is "disposed on the receiving device" and even "disposed in the recess"(Col. 3, line 70 to Col. 7, line 45). As depicted in fig. 1, Adams discloses the thick glass plate (e.g., a cuboid "plastics" body 28) has a box-shaped portion.

Re claim 5, Adams discloses the device further has a thick glass plate (e.g., a cuboid "plastics" body 28) having an optically level reference surface (29). This body (28) is the "test standard of fixed roughness" (the roughness remains unchanged".

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams (3,501,841).

Re claim 6, Adams discloses the device further has a thick glass plate (e.g., a cuboid "plastics" body 28) having an optically level reference surface (29). This body (28) is the "test standard of fixed roughness" (the roughness remains unchanged". While Adams does not specifically disclose that the testing standard is a molded copy of an adjustment standard, the test standard would operate equally as well whether it is a molded copy of an adjustment standard. Furthermore the test standard serves the same purpose as the adjustable standard, which is to compare the tested surface with the reference surface (29) of test standard (29). Therefore, to employ Adams on a testing standard that is a molded copy of an adjustment standard would have been obvious to one of ordinary skill in the art at the time of the invention since this reference explicitly teaches a test standard used for the purpose of comparing to a surface being tested.

Re claims 7-9, Adams discloses the unit delimited by its housing (24) can be considered a "receiving device". On the inside this unit has a "recess" (the interior space) for the adjustable along the rails (25 and 27) reception of a part (30), referred to as a "sleeve". the device further has a thick glass plate (e.g., a cuboid "plastics" body 28)

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having an optically level reference surface (29). This body (28) is the "test standard of fixed roughness" (the roughness remains unchanged" which is "disposed on the receiving device" and even "disposed in the recess"(Col. 3, line 70 to Col. 7, line 45). While Adams does not specifically disclose a pocket located in the wall of the recess, the dependent claims 7-9 concern only minor routine modifications which a person skilled in the art would make on the basis of familiar considerations, especially since the resulting advantages are readily foreseeable. Therefore, to employ Adams on a testing standard located in a pocket which is located in the wall of the recess would have been obvious to one of ordinary skill in the art at the time of the invention since this reference explicitly teaches a test standard that is disposed in a recess.

### *Conclusion*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamiko D. Bellamy whose telephone number is (571) 272-2190. The examiner can normally be reached on Monday - Friday 7:30 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tamiko Bellamy

*T.B.*

June 20, 2007

  
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